IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5091 OF 2000

Shri Narottam Gulabdas Keni. ... Petitioner
v/s.
Mahim Causeway Macchimar Co-operative
Hsg.Society Ltd. & anr. ... Respondents

Mr.R.P. Lote for petitioner.
Respondent No.1 is served.
Mr.A.P.Vanarse, AGP for res.No.2.

CORAM : H.L. GOKHALE &
SMT.R.S.DALVI, JJ.

DATE : 11th August 2005

P.C. :

1. Heard Mr.Lote in support of this petition. Mr.Vanarse, AGP, appears for respondent No.2. Respondent No.1 has been served.

2. From the record of this case, it is very clear that the case of the petitioner is similar to some other 8 persons who sought membership in respondent No.1-Housing Society. The Society declined membership to the 9 persons vide its Resolution dated 22nd December 1985 on the ground that they had not deposited Rs.10,000/- with the Society within a period of one month. This was held to be illegal by the order passed by the Assistant Registrar, Co-operative Societies since the Society could not have demanded such amount in

excess of Rs.250/-, which was the membership amount and which amount all these 9 persons had paid. This was in a proceeding initiated by other 8 persons. The Assistant Registrar, Co-operative Societies, directed that those 8 persons be made members and allotted the flats on their contributing to the construction costs. That order has been confirmed up to this High Court. The learned Single Judge of this Court in Writ Petition No.4176 of 1998 confirmed that order by a judgment and order dated 1st October 1999 and the same has also been confirmed in Letters Patent Appeal No.83 of 2000.

3. The petitioner is the only person who, to his misfortune, did not join this group of other 8 persons, though the submission of his Advocate is that he is entirely situated similar to them. He moved the Assistant Registrar, Co-operative Societies for membership. But that Appeal has been kept pending all these years. He has, therefore, filed the present Writ Petition and a Division Bench, by an order dated 25th September 2000, directed the 1st respondent-Society to keep one flat reserved for the petitioner until further orders.

4. The 1st respondent-Society has not cared to file any reply though served. In the circumstances, considering that the case of the petitioner appears to be similar to the other 8 persons, we direct respondent No.2-Assistant Registrar, Co-operative Societies, to hear and decide the Appeal filed by the petitioner against non-grant of membership. The Appeal will be heard and decided within three weeks from the receipt of this order by the Assistant Registrar, Co-operative Societies. Considering that the case of the petitioner is similar to the case of other 8 persons, it is submitted by Mr.Lote, learned Counsel appearing for the petitioner, that a similar order is expected from the Assistant Registrar. That will normally be so unless there are any different circumstances. We further direct that in the event the Appeal is decided in favour of the petitioner, the 1st respondent-Society will forthwith put the petitioner in possession of the flat which has been directed to be kept vacant by an interim order passed in this petition. The injunction granted earlier will continue during the pendency of the proceedings before the Assistant Registrar, Co-operative Societies.

5. We further add that for any reason the order passed by the Assistant Registrar, Co-operative Societies, is against the petitioner, the interim order granted by this Court will continue to operate for a further period of four weeks.

6. Petition is disposed of.

(H.L. GOKHALE, J.)

(SMT. R.S.DALVI, J.)